

REMARKS

Claims 1, 10, 13, 22 and 32-33 are examined. Claims 1 and 13 are amended.

In response to Applicants' submission of March 18, 2010, the Examiner issued the Advisory Action of March 24, 2010, in which the Examiner maintained his previous rejections of Claims 1, 10, 13, 22 and 32-33 under 35 U.S.C. § 103(a) as being unpatentable as being unpatentable over Japanese Patent 9-2488 ("Ishigaki"), in view of U.S. Patent 6,007,246 ("Kinigakis"), as set forth in the Examiner's Final Office Action of January 26, 2010. In the Advisory Action of March 24, 2010, the Examiner states:

The request for reconsideration has been considered but does NOT place the application in condition for allowance because: The short edge (seams 3 and 5) of the spout body that extends out beyond the side seam (8) is part of the first side edge in Ishigaki. Applicant's claims do not preclude the entire first side edge defining the non-gussetted portion. Therefore, Ishigaki clearly shows a first side edge (seams 3, 5 and 8) that extends between the top and bottom ends of the bag, wherein the entire first side edge defines a non-gussetted portion that is substantially perpendicular to and longer than the bottom end with a pour spout located along the non-gussetted portion.

Applicants traverse the Examiner's rejection. First, the Examiner is mistaken when the Examiner identifies the features associated with Ishigaki's reference numerals 3, 5 and 8 as "seams" 3, 5 and 8. According to the English Abstract of Ishigaki, as provided by the Examiner, reference numeral 3 refers to a "route wall" and reference numeral 5 refers to a "bill like shape." In addition, the Japanese specification provides reference numeral 8 as a weld of the front and back panels. Therefore, contrary to the Examiner's contention, Applicant submits that Ishigaki does not teach "seams 3, 5 and 8." Thus, the Examiner's combination of Ishigaki and Kinigakis do not meet the limitations of Applicants' claims.

Second, Applicants have amended independent Claims 1 and 13 to recite that the first side edge is substantially straight. For example, Claim 1 recites:

1. A reclosable bag for storing material, comprising:

a top end having a heat seal and a bottom end having a generally ovoid shape for resting the reclosable bag upright;

first and second side edges on opposite sides of the reclosable bag, each extending between the top and bottom ends, wherein the first side edge is substantially straight and has a non-gusseted portion that is proximately located near the top end, the first side edge forming an acute included angle with the top end and being substantially perpendicular to and longer than the bottom end, and

a pour spout located along the non-gusseted portion and oriented substantially parallel to the first side edge, the pour spout having a reclosable fastener which provides access to a reclosable opening and which includes either a zipper or a slider, the reclosable opening being substantially vertical when the reclosable bag is in a generally upright position.

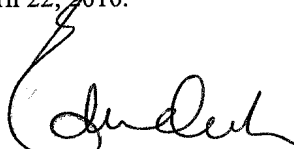
(emphasis added)

Support for Applicants' amendment may be found, for example, in Figs. 3 and 4 of Applicants' Specification. As amended, the side edge recited in each of Applicants' Claims 1 and 13 clearly distinguishes over the Examiner's construction of Ishigaki's side edge (i.e., the edges of Ishigaki's bag near the features that the Examiner erroneously identified as "seams 3, 5 and 8"), as the edges near reference numerals 3, 5 and 8 together clearly do not form a substantially straight side edge. This difference is significant, as Ishigaki's abstract states the following purpose:

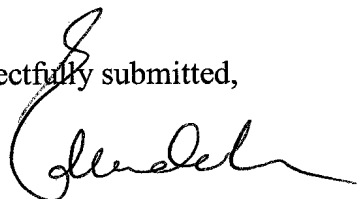
PURPOSE: To improve user's convenience in the pouring of content in a bag to which a pouring opening part is formed by cutting.

To create the pouring opening part by cutting, as shown in Figs. 1-2 and 7-18, Ishigaki's bags each provide a cut-able portion that is extended out from the main body of the bag. However, with the substantially straight side edge, Applicant's recited "pour spout [which is] located along the non-gusseted portion and oriented substantially parallel to the first side edge" cannot be "formed by cutting." Thus, Ishigaki teaches against Applicants' Claims 1 and 13. A reclosable bag having Ishigaki's "route wall 3" and "bill like shape 5" also takes up additional space and lacks the simplicity and aesthetic elegance of a reclosable bag according to either of Applicants' Claims 1 and 13. Thus, Applicants respectfully submit that Claims 1 and 13 and their respective dependent Claims 10, 22 and 32-33 are each allowable over the combined teachings of Ishigaki and Kinigakis. Reconsideration and allowance of these claims are therefore requested.

If the Examiner has any questions regarding the above, the Examiner is requested to call Applicant's attorney at 408-660-4149.

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